

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

CHARLES DENNIS POLING,

Plaintiff,

v.

Civil Action No. 5:19CV238
(STAMP)

WISE SERVICES, INC.,
ZURICH AMERICAN INSURANCE CO.
and GALLAGHER BASSETT SERVICES,

Defendants.

**ORDER CONFIRMING PRONOUNCED ORDER OF THE COURT
FOLLOWING STATUS AND SCHEDULING CONFERENCE
DISMISSING WITH PREJUDICE DEFENDANTS
ZURICH AMERICAN INSURANCE CO. AND GALLAGHER BASSETT SERVICES,
DENYING AS MOOT DEFENDANT ZURICH AMERICAN INSURANCE CO.'S
AND GALLAGHER BASSETT SERVICES' MOTIONS TO DISMISS,
ESTABLISHING DEADLINES FOR ANY RESPONSE AND REPLY
REGARDING DEFENDANT WISE SERVICES, INC.'S MOTION TO DISMISS
AND ESTABLISHING DEADLINE FOR PLAINTIFF TO FILE
AMENDED COMPLAINT AND TO JOIN RHYS WILLIAMS AS A DEFENDANT**

On August 14, 2019, the defendants, Wise Services, Inc. ("Wise"), Zurich American Insurance Co. ("Zurich"), and Gallagher Bassett Services ("Gallagher"), each filed a motion to dismiss the plaintiff's complaint. ECF Nos. 6, 8, and 9. At the time, the plaintiff was pro se,¹ but he has since retained Joshua R. Martin as counsel.

The Court scheduled a status and scheduling conference that was held on September 16, 2019 to discuss, the parties' report of their initial planning meeting (ECF No. 15), and response and reply deadlines pertaining to the defendants' motions to dismiss.

¹"Pro se" describes a person who represents himself in a court proceeding without the assistance of a lawyer. Black's Law Dictionary 1416 (10th ed. 2014).

The only parties appearing before this Court at the status and scheduling conference were counsel for defendant Wise and counsel for the plaintiff.

Counsel for the plaintiff informed this Court that the plaintiff agrees to dismiss Zurich and Gallagher as defendants in this civil action. Therefore, this Court ORDERED that this civil action be DISMISSED WITH PREJUDICE as it relates to defendants Zurich and Gallagher, and retired from the docket of the Court, subject to reopening on motion of any party, and for good cause shown, within ninety (90) days.

Accordingly, defendant Zurich's and defendant Gallagher's motions to dismiss (ECF Nos. 8 and 9) are DENIED AS MOOT.

Defendants Zurich and Gallagher need not submit any additional proposed dismissal or other final order unless it is required by law or is necessary under the terms of any agreement resolving this civil action.

This Court also DIRECTED the plaintiff to file and serve any response to defendant Wise's motion to dismiss by **September 30, 2019**. The Court DIRECTED defendant Wise to file and serve any reply by **October 7, 2019**, or if the response is filed prior to the above deadline date, within seven (7) days from the date of service of the plaintiff's response to defendant Wise's motion to dismiss.

Lastly, counsel for the plaintiff indicated that he intends to file an amended complaint asserting a new claim against defendant Wise and adding Rhys Williams ("Williams") as a defendant in this

civil action. This Court DIRECTED the plaintiff to file an amended complaint asserting any new claim or adding Williams as a defendant in this civil action by **September 23, 2019 by 5:00 p.m.**

As indicated in this Court's scheduling order, the plaintiff may seek leave to file a motion to join additional parties, other than Williams, or to amend pleadings on or before **January 3, 2020.**

IT IS SO ORDERED.

The Clerk is directed to transmit a copy of this order to counsel of record herein.

DATED: September 16, 2019

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE